

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF TENNESSEE  
AT KNOXVILLE

METROPOLITAN LIFE INS. CO., )  
                                  )  
Plaintiff,                  )  
                                  )  
v.                             )       No. 3:12-CV-221-RLJ-CCS  
                                  )  
DAN C. GODBEE, *et al.*, )  
                                  )  
Defendants.                )  
                                  )

**MEMORANDUM AND ORDER**

This case is before the undersigned pursuant to 28 U.S.C. § 636, the Rules of this Court, and Standing Order 13-02.

Now before the Court is a Motion to Withdraw [Doc. 33], filed by Attorney Robert W. Wilkinson. In his motion, Mr. Wilkinson moves the Court to permit him to withdraw as counsel of record for Curtis Kibbey and Patricia Kibbey. Mr. Wilkinson states that he moves he withdraw as counsel for Mr. Kibbey and Ms. Kibbey, who are “Co-Personal Representatives of the Estate of Arlene Kibbey.” This request to be relieved as counsel spurs to concerns:

First, Local Rule 83.4 directs that an attorney will not be permitted to withdraw as counsel for an artificial entity, absent a showing of extraordinary circumstances. The Motion to Withdraw implies that Mr. Wilkinson is moving to withdraw as counsel for the estate of Arlene Kibbey. However, the Court has examined the record and found that on February 10, 2014, the presiding District Judge entered an Order substituting “Curtis W. Kibbey, the sole surviving heir of Arlene Kibbey, as a defendant in this case.” [Doc. 26 at 1]. The District Judge’s decision was consistent with a Motion for Substitution of Parties [Doc. 22], filed by Curtis Kibbey, which

identified Curtis Kibbey as the “sole surviving hear-at-law of Arlene Kibbey.” Because Mr. Kibbey, not the estate of Arlene Kibbey, is the relevant defendant, the Court finds that it is not required to find that “extraordinary circumstances” support granting the request to withdraw.

Second, the Court does not show that Patricia Kibbey is a defendant in this matter. The District Judge did not refer to Patricia Kibbey in his Order substituting Mr. Kibbey, as heir to Arlene Kibbey, and the record does not indicate that Patricia Kibbey was ever made a defendant in this case through service of process. Under these circumstances, the Court cannot relieve Mr. Wilkinson from representing a person that does not *appear* to be a party to this suit.<sup>1</sup> Mr. Wilkinson’s request to withdraw as counsel for Patricia Kibbey appears misplaced, and it is **DENIED**.

Thus, turning to the original request for relief, the Court finds that Mr. Wilkinson’s request to withdraw as counsel for Curtis W. Kibbey complies with Local Rule 83.4, and it is **GRANTED**. Mr. Wilkinson is **RELIEVED** of his duties as counsel for Curtis W. Kibbey. The Clerk of Court is **DIRECTED** to enter the address supplied by Mr. Wilkinson as the address for Curtis Kibbey and is **DIRECTED** to mail a copy of this Memorandum and Order to Curtis Kibbey.

Curtis Kibbey is hereby **ADMONISHED** that he is deemed to be proceeding *pro se*. Until he obtains substitute counsel, it is his obligation to stay up to date on the status of this case and comply with the deadlines set by the Court. Likewise, if Mr. Kibbey elects to proceed in this case without an attorney, he is responsible for complying with all deadlines set by the Court and responding to any requests for relief by other parties. Mr. Kibbey, like any other party, will be expected to comply with the Federal Rules of Civil Procedure, the Local Rules, and the Court’s

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<sup>1</sup> Notwithstanding, the undersigned’s inability to determine the withdrawal issue in these circumstances should not be interpreted as a ruling upon Patricia Kibbey’s status or any other issues more appropriately addressed to the District Judge.

Orders, and Mr. Kibbey is reminded that this case is set to proceed to trial at **9:00 a.m. on October 29, 2014.**

In sum and for the reasons stated above, the Motion to Withdraw [Doc. 33] is **GRANTED IN PART** and **DENIED IN PART.**

**IT IS SO ORDERED.**

ENTER:

s/ C. Clifford Shirley, Jr.  
United States Magistrate Judge